TRIAL PRACTICE

Fall 2016 & Spring 2017

Professor: Kevin Griffin

Contact Info: direct line/ voice mail: 802-779-4052
            e-mail: kevin.griffin@vermont.gov or kevgrif1@gmail.com

Required Materials

Fundamentals of Trial Techniques by Thomas Mauet, (9th Ed.), Published by Aspen Publishing, Inc.
Problems in Trial Advocacy, NITA, (2015 Ed.)

Case Files: State v. Diamond, NITA, (6th Ed.)

Note: We will use the Diamond case in class. The Stone case (criminal) and the
      Shrackle case (civil) will be used for your Final Trials; you will only need to purchase one.

Suggested Outside Reading

Evidentiary Foundations, by E. Imwinkelreid

Cross Examination: Science and Techniques, by Larry Pozner and Roger Dodd

SYLLABUS AND CLASS ASSIGNMENTS

CLASS ATTENDANCE AND PARTICIPATION: Students are expected to attend each class
and be prepared to participate. Three (3) unexcused absences will result in a grade of Incomplete
reported to the Registrar.

1. Introductory Class
   Read: Mauet, ch. I and II

2. Direct Examination
   Read: Mauet, ch. V
   Prepare: Group A: NITA Problem 1 (Direct of James Bier)
            Group B: NITA Problem 2 (Direct of Robert Byrd)

3. Cross Examination
   Read: Mauet, ch. VII
   Prepare: Group A: NITA Problem 1 (Cross of James Bier)
            Group B: NITA Problem 2 (Cross of Robert Byrd)
4. Direct and Cross
   Prepare: Group A: NITA Problem 3 (Direct of Gale Fitzgerald)
   Group B: NITA Problem 3 (Cross of Gale Fitzgerald)

5. Exhibits and Demonstrative Evidence
   Read: Mauet, ch. VI and X
   Prepare: Group A: NITA Problem 12 (introduce the photos)
            NITA Problem 15, parts 1 & 2 (oppose the photos)
            NITA Problem 19, part A (introduce the bat)
            parts B & C (oppose the offer on the bottle)
   Group B: NITA Problem 12 (oppose the photos)
            NITA Problem 15, parts 1 & 2 (introduce the photos)
            NITA Problem 19, part A (oppose the bat)
            parts B & C (introduce the bottle)

6. Impeachment and Rehabilitation
   Prepare: Group A: NITA Problem 30, part A (cross of Mark Warden)
            NITA Problem 31, part A (redirect of Agent O’Rourke)
   Group B: NITA Problem 30, part A (redirect of Mark Warden)
            NITA Problem 31, part A (cross of Agent O’Rourke)

7. More Direct and Cross
   Prepare: William Taylor v. Nancy Taylor (handout)
   Group B: Direct of Nancy Taylor
   Group A: Cross of Nancy Taylor

8. Experts
   Read: Mauet ch. VIII
   NITA Case file: State v. Diamond
   Prepare: Group A: Direct of Dr. Pierce
   Group B: Cross of Dr. Pierce

   The Prosecution’s Case
   State’s witnesses: Beth Kelly and Sgt. Benbrook
   Prepare: Group A & B: Roles to be assigned
   NOTE: For purposes of this class, Sgt. Benbrook’s statement shall also include
   the material contained in Sgt. Madden’s statement. Also, parties may rely on the
   stipulations contained in the case file, as well as a stipulation to the admission of
   the statement of Dr. Pierce and his report.

10. Mini-Trial: State v. Diamond
    The Defense Case
    Defense witnesses: Estelle Mason and John Diamond
    Prepare: Group A & B: Roles to be assigned
11. **Opening Statements**  
Read: Mauet, ch. IV  
Prepare: Group A & B: Opening Statement for State v. Diamond  
(Prosecution and Defense Roles to be assigned)

12. **Closing Arguments**  
Read: Mauet, ch. IX  
Prepare: Group A & B: Closing Argument for State v. Diamond  
(Prosecution and Defense Roles to be assigned)

13. **Jury Selection**  
Read: Mauet, ch. III  
Prepare: Group A & B: Voir Dire on issues from State v. Diamond  
(Prosecution and Defense Roles to be assigned)

NOTE: We will also discuss preliminary issues related to Final Trials

****STUDENT FINAL TRIALS ARE ALL DAY SATURDAY (Date TBA)****

Final Trial Cases Are Either:  
State v. Stone – Criminal Case  
Or:  
Potter v. Shrackle – Civil Case [trial on liability only; not damages]

Students who find a Saturday final trial problematic must notify Wendy Smith as early as possible in the semester so alternative arrangements can be made.

14. **Final Class**  
(No assignment)  
Discussion of Final Trials and other matters